



ENVIRONMENTAL PROTECTION AGENCY

2 CFR Part 1500

40 CFR Parts 33, 35, 45, 46 and 47

[EPA-HQ OMS-2020-0018; 7573-01-OMS]

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Participation by Disadvantaged Business Enterprises in United States Environmental Protection Agency Programs, State and Local Assistance, Research and Demonstration Grants, National Environmental Education Act Grants

Agency: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulatory action finalizes an interim final rule and revises certain provisions of other Environmental Protection Agency (EPA) financial assistance regulations to make non-substantive technical corrections to the text of the rules. Revisions to these rules are exempt from the notice and comment requirements of the Administrative Procedure Act (APA) because it is a matter relating to agency management concerning grants.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This Final Rule adopts as final with change the 2 CFR part 1500 revisions that were promulgated in a September 30, 2020 *Federal Register* document as an Interim Final Rule with request for comment. No comments were submitted. The Interim Final Rule was effective as of November 12, 2020, to coincide with the effective date of the

Office of Management and Budget's revisions to 2 CFR part 200. This Final Rule will also make technical corrections (described below) to the text in 2 CFR part 1500 and provisions of other EPA financial assistance rules in 40 CFR part 33, 40 CFR part 35, 40 CFR part 40 and 40 CFR part 47.

The Final Rule:

1. Amends 2 CFR 1500.3, *Applicability*, to add a citation to 2 CFR part 25, *Universal Identifier and System for Award Management*.
2. Amends 2 CFR 1500.7, *Retention requirements for records*, to update the citation to record retention requirements in 2 CFR Part 200 by changing the citation from 2 CFR 200.333 to 2 CFR 200.334 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.
3. Amends 2 CFR 1500.11 *Use of the same architect or engineer during construction*, to update citations to procurement requirements in 2 CFR part 200 and clarify certain terms. The current citations to 2 CFR 200.320(f) and 2 CFR 200.326 have been changed to 2 CFR 200.320(c)(4) and 2 CFR 200.327 respectively based on OMB renumbering certain sections in 2 CFR part 200. Additionally, the term "subaward" in 2 CFR 1500.11 has been changed to "contract" throughout this provision for consistency with the terminology in 2 CFR part 200 and 2 CFR 1500.10.
4. Amends 2 CFR 1500.12 to update the web addresses to Quality Assurance documents.
5. Amends 2 CFR 1500.14, *Definitions*, to delete the definition of "Review Official" at 2 CFR 1500.14(f). The definition is no longer necessary because the Interim Final Rule eliminated the role of the Review Official in the disputes process.
6. Amends 2 CFR 1500.17 *Determination of Dispute*, to clarify in 2 CFR 1500.17(e) the time for requesting reconsideration of a Dispute Decision Official (DDO) decision is 15 calendar days from the issuance of a DDO decision.
7. Amends 40 CFR 33.103, *Definitions*, to update the citation to the definition of *Equipment* by changing the citation from 2 CFR 200.33 to 2 CFR 200.1 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

8. Amends 40 CFR 33.105, *What are the compliance and enforcement provisions of this subpart*, to update the citation to the remedies for non-compliance provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.338 to 2 CFR 200.339 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

9. Amends 40 CFR 35.113, *Reimbursement for pre-award costs*, to clarify that the only requirements for the allowability of pre-award costs is that the costs be incurred during the EPA approved budget period for the assistance agreement award, that the costs be otherwise allowable if incurred after award, and that the applicant identify pre-award costs in the application for EPA funding. This clarification will make the regulation consistent with EPA's intent as described in the Preamble to the final rule for 40 CFR Part 35, Subpart A (66 FR 1726, 1728 (January 9, 2001)).

10. Amends 40 CFR 35.114, *Amendments and other changes*, to clarify that all adjustments to amounts of environmental program grants require prior EPA approval through grant amendments. Adjustments requiring prior EPA approval include increases or decreases in the amount of Federal funding as well as increases or decreases in the amount of recipients' cost shares.

11. Amends 40 CFR 35.115, *Evaluation of performance*, to update the citations to the provisions for performance reporting in 2 CFR part 200 by changing the citation from 2 CFR 200.328 to 2 CFR 200.329 and to update the citation to the remedies for non-compliance provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.338 to 2 CFR 200.339-200.243 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

12. Amends 40 CFR 35.133(b), *Changes in eligible programs*, by adding a reference to an EPA web site that provides current list of environmental programs eligible for inclusion in Performance Partnership Grants.

13. Revises 40 CFR 35.503, *Deviation from this subpart*, to update the citation to EPA's provisions for regulatory exceptions from 2 CFR 1500.3 to 2 CFR 1500.4 to coincide with

EPAs' renumbering of certain sections in 2 CFR part 1500. Additionally, the heading of the section and the text has been revised to use the term "Exception" rather than "Deviation" to be consistent with the terminology in 2 CFR 1500.4.

14. Amends 40 CFR 35.513(a), *Reimbursement for pre-award costs*, to clarify that the only requirements for the allowability of pre-award costs is that the costs be incurred during the EPA approved budget period for the assistance agreement award, that the costs be otherwise allowable if incurred after award, and that the applicant identify pre-award costs in the application for EPA funding. This clarification will make the regulation consistent with EPA's intent as described in the Preamble to the final rule for 40 CFR Part 35, Subpart B (66 FR 3782, 3783 (January 16, 2001)).

15. Amends 40 CFR 35.514, *Amendments and other changes*, to clarify that all adjustments to amounts of environmental program grants require prior EPA approval through grant amendments. Adjustments requiring prior EPA approval include increases or decreases in the amount of Federal funding as well as increases or decreases in the amount of recipients' cost shares.

16. Revises 40 CFR 35.532(b), *Requirements summary*, to correct a typographical error in the numbering of the subsections.

17. Amends 40 CFR 35.515, *Evaluation of performance*, to update the citations to the provisions for performance reporting in 2 CFR part 200 by changing the citation from 2 CFR 200.328 to 2 CFR 200.329 and to update the citation to the remedies for non-compliance provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.338 to 2 CFR 200.339-200.243 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

18. Amends 40 CFR 35.533(a), *Programs eligible for inclusion*, to change the citation to the list of eligible programs from 40 CFR 35.101(a)(2) through (10) to 40 CFR 35.501(a)(2) through (10) to correct a typographical error. Additionally, the Final Rule amends 40 CFR 35.333(b), by

adding a reference to an EPA web site that provides current list of environmental programs eligible for inclusion in Performance Partnership Grants.

19. Amends 40 CFR 35.588, *Award limitations*, by changing the citation to the quality assurance provisions in 2 CFR part 1500 from 2 CFR 1500.11 to 2 CFR 1500.12 to coincide with EPA's renumbering of certain sections of 2 CFR part 1500.

20. Amends 40 CFR 35.2036, *Design/build projects*, to update the citations to procurement provisions in 2 CFR part 200 by changing the citations from 2 CFR 200.325 to 2 CFR 200.326 and 2 CFR 200.326 to 2 CFR 200.327 to coincide with OMB's renumbering of certain sections in 2 CFR part 200. Additionally, citations to the procurement provisions in 2 CFR part 1500 are being changed from 2 CFR 1500.9 and 2 CFR 1500.10 to 2 CFR 1500.10 and 2 CFR 1500.11 to coincide with EPA's renumbering of the sections in 2 CFR part 1500. EPA is also correcting a typographical error in 40 CFR 35.2036(d)(2)

21. Revises 40 CFR 35.2105, *Debarment and suspension*, to change the citation to the suspension and debarment provisions of 2 CFR part 200 from 2 CFR 200.113 to 2 CFR 200.214 to correct a typographical error.

22. Amends 40 CFR 35.2300, *Grant payments*, to update the citation to the payment provisions of the Federal grant regulations from 40 CFR part 30 to 2 CFR 200.305. The regulations at 40 CFR part 30 were rescinded.

23. Amends Appendix A to subpart I of 40 CFR part 35 to update the citations to the procurement provisions in 2 CFR part 200 and 2 CFR part 1500 by changing the citations from 2 CFR 200.326 to 2 CFR 200.327; from 2 CFR 1500.9 to 2 CFR 1500.10; from 2 CFR 1500.10 to 2 CFR 1500.11 to coincide with OMB's renumbering of certain sections in 2 CFR part 200 and EPA's renumbering of the sections in 2 CFR part 1500.

24. Amends 40 CFR 35.3025, *Overview of state performance under delegation*, to update the citations to the remedies for noncompliance in 2 CFR part 200 by changing the citations from 2 CFR 200.338 through 2 CFR 200.342 to 2 CFR 200.339 through 2 CFR 200.343 to coincide

with OMB's renumbering of certain sections in 2 CFR part 200. EPA is also correcting typographical errors in 40 CFR 35.3025.

25. Amends 40 CFR 35.3585, *Compliance assurance procedures*, to update the citations to the remedies for non-compliance provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.338 through 2 CFR 200.342 to 2 CFR 200.339 through 2 CFR 200.343 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

26. Amends 40 CFR 35.4012, *If there appears to be a difference between the requirements of 2 CFR Parts 200 and 1500 and this subpart, which regulations should my group follow?*, to update the citations to one of the procurement provisions of 2 CFR part 200 by changing the citation from 2 CFR 200.224(b)(2) to 2 CFR 200.225(b)(2) to coincide with OMB's renumbering of certain sections in 2 CFR part 200. Additionally, EPA has made technical corrections to 40 CFR 35.4012 to clarify that 2 CFR 200.320, *Methods of procurement to be followed*, 2 CFR 200.324, *Cost or price analysis*, and 2 CFR 200.325(b)(2), *Federal awarding agency or pass-through entity review*, do not apply to procurements by Technical Assistance Grant recipients on the basis of the program specific procurement requirements in 40 CFR 35.4205 35.4210.

27. Revises 40 CFR 35.4120, *What does my group do next?* and 40 CFR 35.4125, *What else does my group need to do?*, to make technical corrections for consistency with EPA's policy on intergovernmental review published at 85 FR 7510 (November 24, 2020). This revision codifies a class exception to 40 CFR 35.4120 authorized on August 27, 2021.

28. Amends 40 CFR 35.4235, *Are there specific provisions my group's contract(s) must contain?*, to update the citation to the access to records provision in 2 CFR part 200 by changing the citation from 2 CFR 200.336 to 2 CFR 200.337 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

29. Amends 40 CFR 35.4250, *Under what circumstances would EPA terminate my group's TAG?*, to update the citation to the termination provisions of 2 CFR part 200 by changing the

citation from 2 CFR 200.339 to 2 CFR 200.340 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

30. Revises 40 CFR 35.4245, *How does my group resolve a disagreement with EPA regarding our TAG?*, to update the description of EPA's grant dispute regulations at 2 CFR 1500.17. The regulation currently refers to an outdated version of 2 CFR 1500.17 describing reviews of Dispute Decision Official decisions by EPA Regional Administrators which are no longer available under 2 CFR part 1500 due to streamlining of the dispute procedures in the Interim Final Rule. This revision codifies a class exception to 40 CFR 35.4245 authorized on August 27, 2021.

31. Amends 40 CFR 35.4260, *What other steps might EPA take if my group fails to comply with the terms and conditions of our award?*, to update the citation to the remedies for noncompliance in 2 CFR part 200 by changing the citation from 2 CFR 200.338 to 2 CFR 200.339 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

32. Revises 40 CFR 35.6025, *Deviation from this subpart*, to update the citation to EPA's regulatory exception provisions in 2 CFR part 1500 by making technical corrections to the terminology and changing the citation from 2 CFR 1500.3 to 2 CFR 1500.4 for consistency with the terminology and numbering of the sections in 2 CFR part 1500.

33. Amends 40 CFR 35.6055, *State-lead pre-remedial Cooperative Agreements*, to update the citation to the quality assurance provisions of 2 CFR part 1500 by changing the citation from 2 CFR 1500.11 to 2 CFR 1500.12 to coincide with EPA's renumbering of the sections in 2 CFR part 1500.

34. Amends 40 CFR 35.6105, *State-lead remedial Cooperative Agreements*, to update the citation to the quality assurance provisions of 2 CFR part 1500 by changing the citation from 2 CFR 1500.11 to 2 CFR 1500.12 to coincide with EPA's renumbering of the sections in 2 CFR part 1500.

35. Amends 40 CFR 35.6550, *Procurement system standards*, to update the citations to procurement provisions in 2 CFR Part 200 by changing the citation from 2 CFR 200.327 to 2 CFR 200.328 to coincide with OMB's renumbering of certain sections in 2 CFR part 200 and to correct the cross references to 40 CFR 35.6565.

36. Amends 40 CFR 35.6565, *Procurement methods*, to update the citations to the procurement provisions in 2 CFR part 1500 by changing the citation from 2 CFR 1500.9 to 2 CFR 1500.10 to coincide with EPA's renumbering of the sections in 2 CFR part 1500.

37. Amends 40 CFR 35.6590, *Bonding and insurance* to update a citation to CFR Part 200 by changing the citation from 2 CFR 200.325 to 2 CFR 200.326 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

38. Amends 40 CFR 35.6650, *Progress reports*, to update the citations to the reporting provisions in 2 CFR part 200 by changing the citations from 2 CFR 200.327 and 2 CFR 200.328 to 2 CFR 200.328 and 2 CFR 200.329 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

39. Amends 40 CFR 35.6670, *Financial reports*, to update the citation to the reporting provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.327 to 2 CFR 200.328 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

40. Amends 40 CFR 35.6705, *Records retention*, to update the citations to the record retention provisions in 2 CFR part 1500 by changing the citation from 2 CFR 1500.6 to 2 CFR 1500.7 to coincide with EPA's renumbering of the sections in 2 CFR part 1500.

41. Amends 40 CFR 35.6710, *Records access*, to update the citation to the record access provisions in 2 CFR part 200 by changing the citation from 2 CFR 200.336 to 2 CFR 200.337 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

42. Revises 40 CFR 35.6755, *Monitoring program performance*, by changing the citation from 2 CFR 200.328 to 2 CFR 200.329 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

43. Revises 40 CFR 35.6760 *Enforcement and termination*, by changing the title and text to refer to “Remedies for noncompliance and termination” and the citations from 2 CFR 200.338 and 2 CFR 200.339 to 2 CFR 200.339 and 2 CFR 200.340 to coincide with the terminology and numbering of certain sections in 2 CFR part 200.

44. Amends 40 CFR § 35.6780 *Closeout*, by changing the citations from 2 CFR 200.343 and 2 CFR 200.344 to 2 CFR 200.344 and 2 CFR 200.345 to coincide with OMB’s renumbering of certain sections in 2 CFR part 200.

45. Revises 40 CFR 35.6785 *Collection of amounts due*, by changing the citation from 2 CFR 200.345 to 2 CFR 200.346 to coincide with OMB’s renumbering of certain sections in 2 CFR part 200.

46. Revises 40 CFR 35.6790 *High risk recipients*, by changing the citations from 2 CFR 200.207 and 2 CFR 200.338 to 2 CFR 200.208 and 2 CFR 200.339 to coincide with OMB’s renumbering of certain sections in 2 CFR part 200. The title of the section has also been revised as “Specific Conditions” for consistency with the terminology in 2 CFR part 200.

47. Amends 40 CFR 35.6815 *Administrative requirements*, by changing the citation from 2 CFR 200.345 to 2 CFR 200.346 to coincide with OMB’s renumbering of certain sections in 2 CFR part 200.

48. Amends 40 CFR 35.9015 *Summary of annual process*, to correct a typographical error in 40 CFR 35.9015(d) by changing “score of work” to “scope of work”.

49. Amends 40 CFR 40.135-1 *Preapplication coordination*, to reference with the requirement in 2 CFR 200.204(a) to post notices of competitive funding opportunities on the OMB-designated governmentwide website for funding and applying for Federal financial assistance as well as EPA policy and remove the reference to soliciting competitive applications on Commerce Business Daily.

50. Amends 40 CFR 40.135-2 *Application requirements*, by changing the citation from 2 CFR 200.206 to 2 CFR 200.207 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

51. Amends 40 CFR 40.155 *Availability of information*, by changing the citations from 2 CFR 200.211 to 2 CFR 200.212 and from 2 CFR 1500.3 to 2 CFR 1500.4 to coincide with OMB's renumbering of certain sections in 2 CFR part 200 and EPA's renumbering of certain sections of 2 CFR part 1500.

52. Revises 40 CFR 40.160-2 *Financial status report*, by changing the citation from 2 CFR 200.327 to 2 CFR 200.328 to coincide with OMB's renumbering of certain sections in 2 CFR part 200 and to add a citation to 2 CFR 200.344 which extends the date for submitting final financial status reports from 90 days to 120 days. The text of the regulation will be revised accordingly.

53. Amends 40 CFR 40.160-3 *Reporting of inventions*, to correspond to the requirement in 2 CFR 200.344 for submitting all required reports within 120 days of the end date for the period of performance.

54. Revises 40 CFR 40.160-4 *Equipment report*, to reference the definition of *Equipment* at 2 CFR 200.1 and the date for submission of final reports at 2 CFR 200.344.

55. Revises 40 CFR 40.160-5 *Final report*, to correspond to the requirement in 2 CFR 200.344 for submitting all required reports within 120 days of the end date for the period of performance.

56. Amends 40 CFR §45.130, *Evaluation of applications*, to by changing the citation from 2 CFR 200.204 to 2 CFR 200.205 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

57. Revises 40 CFR 45.140, *Budget and project period*, to provide that the budget and project period for EPA financial assistance awards for training will be specified in the terms of the

awards as provided by 2 CFR 200.211. This revision codifies a class exception to the 3-year training period limitation in 40 CFR §45.140 authorized on March 29, 2018.

58. Revises 40 CFR 45.150, *Reports*, to change the citations to 2 CFR 200.327 and 2 CFR 200.328 to 2 CFR 200.328 and 2 CFR 200.329 to coincide with OMB's renumbering of certain sections of 2 CFR part 200 and revises the date for submission of the final report to 120 days from the end of the project period to correspond to 2 CFR 200.344.

59. Revises the Authority of 40 CFR part 46 and 40 CFR 46.105 to update the citation to section 104(k)(7) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(k)(7)) based on a recodification of the statute by the Brownfields Utilization, Investment, and Local Development Act (BUILD Act).

60. Amends 40 CFR 47.130 *Performance of grant*, to update the citations to procurement provisions in 2 CFR Part 200 by changing the citation from 2 CFR 200.326 to 2 CFR 200.327 to coincide with OMB's renumbering of certain sections in 2 CFR part 200.

I. General Information

A. Affected Entities

Entities affected by this action are those that apply for and/or receive Federal financial assistance (grants, cooperative agreements or fellowships) from EPA including but not limited to: State and local governments, Indian Tribes, Intertribal Consortia, Institutions of Higher Education, Hospitals, and other Non-profit Organizations, and Individuals.

II. Background

On September 30, 2020 (85 FR 61571-61575) EPA promulgated an Interim Final Rule revising 2 CFR part 1500, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. These regulations supplement OMB's 2 CFR part 200 regulations covering the same subjects. The Interim Final Rule was effective on November 12, 2020 to coincide with the effective date of OMB's revisions to 2 CFR part 200. EPA offered the public an opportunity to comment on the revisions to 2 CFR part 1500. The preamble to the

Interim Rule states that “[T]he rule will become final without further revision if no changes are warranted based on comments EPA receives.” No comments were submitted. Consequently, EPA is issuing this Final Rule making technical corrections to 2 CFR part 1500. Additionally, EPA is making technical corrections to other provisions of EPA’s financial assistance regulations at 40 CFR part 33, 40 CFR part 35, 40 CFR part 45, and 40 CFR part 47 without making substantive revisions to these regulations.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a "significant regulatory action" and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations 2 CFR parts 200 and 1500 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2030-0020. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

This final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because this rule pertains to grants, which the APA expressly exempts from notice and comment rulemaking requirements. 5 U.S.C. 553(a)(2).

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action affects all applicants and recipients of EPA financial Federal assistance and therefore no one entity type will be impacted disproportionately or significantly.

E. Executive Order 13132 (Federalism)

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action affects all applicants and recipients of EPA financial Federal assistance and therefore no one entity type will be impacted disproportionately. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action affects all applicants and recipients of EPA financial Federal assistance and therefore no one entity type will be impacted disproportionately. Thus, Executive Order 13175 does not apply to this action. Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, the EPA consulted with tribal officials on these changes.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This action does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that it is not practicable to determine whether this action has disproportionately high and adverse effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

K. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the

Comptroller General of the United States prior to publication of the rule in the *Federal Register*.

This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects

2 CFR Part 1500

Accounting, Grant programs, Grants administration, Grant programs-environmental protection, Loan programs, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Parts 33, 35, 45, 46, and 47

Accounting, Grant programs, Grants administration, Grant programs-environmental protection, Loan programs, Reporting and recordkeeping requirements, Water pollution control, Water supply, Grant Programs-Indians.

Kimberly Patrick,
Principal Deputy Assistant Administrator
Office of Mission Support.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 2 CFR part 1500 and 40 CFR parts 33, 35,45, 46 and 47 as follows:

TITLE 2- GRANTS AND AGREEMENTS

CHAPTER XV- ENVIRONMENTAL PROTECTION AGENCY

PART 1500—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

1. The authority citation for part 1500 continues to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 136 *et seq.*, 15 U.S.C. 2601 *et seq.*, 20 U.S.C. 4011 *et seq.*, 33 U.S.C. 1251 *et seq.*, and 1401 *et. seq.*, 42 U.S.C. 241, 242b, 243, 246, 300f *et seq.*, 1857 *et seq.*, 6901 *et seq.*, 7401 *et seq.*, and 9601 *et seq.*; 2 CFR part 200.

2. Revise §1500.3 (b) to read as follows:

§1500.3 Applicability.

* * * * *

(b) Requirements for subrecipient monitoring and management at 2 CFR 200.331 through 200.333 do not apply to loan, loan guarantees, interest subsidies and principal forgiveness, purchases of insurance or local government debt or similar transactions with borrowers by recipients of Clean Water State Revolving Fund (CWSRF) capitalization grants and Drinking Water State Revolving Fund (DWSRF) capitalization grants. Requirements in 2 CFR Part 25, Universal Identifier and System for Award Management, 2 CFR Part 170, Reporting subaward and executive compensation and internal controls described at 2 CFR 200.303 continue to apply to CWSRF and DWSRF grant recipients and borrowers.

3. Revise §1500.7(b) to read as follows:

§1500.7 Retention requirements for records.

* * * * *

(b) When there is a difference between the retention requirements for records of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2

CFR 200.334) and the applicable statute, the non-federal entity will follow to the retention requirements for records in the statute.

4. Amend §1500.11 by revising paragraphs (a)(2), (a)(3)(i) and (iv), and (b) to read as follows:

§1500.11 Use of the same architect or engineer during construction.

(a) * * *

(2) The award official approves noncompetitive procurement under 2 CFR 200.320(c)(4) for reasons other than simply using the same individual or firm that provided facilities planning or design services for the project; or

(3) * * *

(i) The initial request for proposals clearly stated the possibility that the firm or individual selected could be awarded a contract for services during construction; and

* * * * *

(iv) None of the recipient's officers, employees or agents solicited or accepted gratuities, favors or anything of monetary value from contractors or other parties to contracts.

(b) However, if the recipient uses the procedures in paragraph (a) of this section to retain an architect or engineer, any Step 3 contracts between the architect or engineer and the grantee must meet all other procurement provisions in 2 CFR 200.317 through 200.327.

5. Revise §1500.12(e) to read as follows:

§1500.12 Quality Assurance.

* * * * *

(e) EPA Quality Policy is available at: <https://www.epa.gov/quality>.

* * * * *

§1500.14 [Amended]

6. Amend §1500.14 by removing paragraph (f).

7. Revise §1500.17(e) to read as follows:

§1500.17 Determination of Dispute

* * * * *

(e) The DDO may consider untimely filed reconsideration petitions only if necessary, to correct a DDO Decision that is manifestly unfair and inequitable in light of relevant and material evidence that the Affected Entity could not have discovered during the 15-calendar day period for petitioning for reconsideration. This evidence must be submitted within six months of the date of the DDO Decision. The DDO will advise the Affected Entity within 30 days of receipt of an untimely filed reconsideration petition whether the DDO will accept the petition. Denial of an untimely filed reconsideration petition constitutes final agency action.

TITLE 40- PROTECTION OF THE ENVIRONMENT

CHAPTER I- ENVIRONMENTAL PROTECTION AGENCY

PART 33—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PROGRAMS

8. The authority citation for 40 CFR part 33 continues to read as follows:

Authority: 15 U.S.C. 637 note; 42 U.S.C. 4370d, 7601 note, 9605(f); E.O. 11625, 36 FR 19967, 3 CFR, 1971 Comp., p. 213; E.O. 12138, 49 FR 29637, 3 CFR, 1979 Comp., p. 393; E.O. 12432, 48 FR 32551, 3 CFR, 1983 Comp., p. 198, 2 CFR part 200.

9. Amend §33.103 by revising the definition of “Equipment” to read as follows:

§33.103 What do the terms in this part mean?

* * * * *

Equipment means items procured under a financial assistance agreement as defined by 2 CFR 200.1.

* * * * *

10. Amend §33.105 by revising the introductory text to read as follows:

§33.105 What are the compliance and enforcement provisions of this part?

If a recipient fails to comply with any of the requirements of this part, EPA may take remedial action under 2 CFR 200.339, Remedies for noncompliance, or 40 CFR part 35, as appropriate, or

any other action authorized by law, including, but not limited to, enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*). Examples of the remedial actions under 2 CFR 200.339 or 40 CFR part 35 include, but are not limited to:

* * * * *

PART 35—STATE AND LOCAL ASSISTANCE

11. The authority citation for 40 CFR part 35 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*; 33 U.S.C. 1251 *et seq.*; 42 U.S.C. 300f *et seq.*; 42 U.S.C. 6901 *et seq.*; 7 U.S.C. 136 *et seq.*; 15 U.S.C. 2601 *et seq.*; 42 U.S.C. 13101 *et seq.*; Pub. L. 104-134, 110 Stat. 1321, 1321-299 (1996); Pub. L. 105-65, 111 Stat. 1344, 1373 (1997), 2 CFR part 200.

SUBPART A -- ENVIRONMENTAL PROGRAM GRANTS

12. Revise §35.113(a) to read as follows:

§35.113 Reimbursement for pre-award costs.

(a) Notwithstanding the requirements of 2 CFR parts 200 and 1500, EPA may reimburse recipients for pre-award costs incurred from the beginning of the budget period established in the grant agreement if such costs would have been allowable if incurred after the award. Pre-award costs must be identified in the grant application EPA approves.

* * * * *

13. Revise §35.114(b) to read as follows:

§35.114 Amendments and other changes.

* * * * *

(b) *Changes requiring approval.* Recipients must request, in writing, grant amendments for changes requiring adjustments in environmental program grant amounts and extensions of the funding period. Recipients may begin implementing a change before the amendment has been approved by EPA but do so at their own risk. If EPA approves the change, EPA will issue a grant amendment. EPA will notify the recipient in writing if the change is disapproved.

* * * * *

14. Amend §35.115 by revising paragraphs (a) and (c) to read as follows:

§35.115 Evaluation of performance.

(a) *Joint evaluation process.* The applicant and the Regional Administrator will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan. A description of the evaluation process and a reporting schedule must be included in the work plan (see §35.107(b)(2)(iv)). The schedule must require the recipient to report at least annually and must satisfy the requirements for progress reporting under 2 CFR 200.329.

* * * * *

(c) *Resolution of issues.* If the joint evaluation reveals that the recipient has not made sufficient progress under the work plan, the Regional Administrator and the recipient will negotiate a resolution that addresses the issues. If the issues cannot be resolved through negotiation, the Regional Administrator may take appropriate measures under 2 CFR 200.339 through 200.343. The recipient may request review of the Regional Administrator's decision under the dispute processes in 2 CFR part 1500, subpart E.

* * * * *

15. Revise §35.133(b) to read as follows:

§35.133 Programs eligible for inclusion.

* * * * *

(b) *Changes in eligible programs.* The Administrator may, in guidance or regulation, describe subsequent additions, deletions, or changes to the list of environmental programs eligible for inclusion in Performance Partnership Grants. A current list of environmental programs eligible for inclusion in Performance Partnership Grants is available at www.epa.gov/nepps.

SUBPART B—ENVIRONMENTAL PROGRAM GRANTS FOR TRIBES

16. Revise §35.503 to read as follows:

§35.503 Exceptions from this subpart.

EPA will consider and may approve requests for official exceptions from non-statutory provisions of this regulation in accordance with 2 CFR 1500.4.

17. Revise §35.513(a) to read as follows:

§35.513 Reimbursement for pre-award costs.

(a) Notwithstanding the requirements of 2 CFR parts 200 and 1500, EPA may reimburse recipients for pre-award costs incurred from the beginning of the budget period established in the grant agreement if such costs would have been allowable if incurred after the award. Pre-award costs must be identified in the grant application EPA approves.

* * * * *

18. Revise §35.514(b) to read as follows:

§35.514 Amendments and other changes.

* * * * *

(b) *Changes requiring approval.* Recipients must request, in writing, grant amendments for changes requiring adjustments in environmental program grant amounts and extensions of the funding period. Recipients may begin implementing a change before the amendment has been approved by EPA but do so at their own risk. If EPA approves the change, EPA will issue a grant amendment. EPA will notify the recipient in writing if the change is disapproved.

* * * * *

19. Amend §35.515 by revising paragraphs (a) and (c) to read as follows:

§35.515 Evaluation of performance.

(a) *Joint evaluation process.* The applicant and the Regional Administrator will develop a process for jointly evaluating and reporting progress and accomplishments under the work plan (see §35.507(b)(2)(iv)). A description of the evaluation process and reporting schedule must be included in the work plan. The schedule must require the recipient to report at least annually and must satisfy the requirements for progress reporting under 2 CFR 200.329.

* * * * *

(c) *Resolution of issues.* If the joint evaluation reveals that the recipient has not made sufficient progress under the work plan, the Regional Administrator and the recipient will negotiate a resolution that addresses the issues. If the issues cannot be resolved through negotiation, the Regional Administrator may take appropriate measures under 2 CFR 200.339-200.243. The recipient may request review of the Regional Administrator's decision under the dispute processes in 2 CFR part 1500, subpart E.

* * * * *

20. Revise §35.532(b) to read as follows:

§ 35.532 Requirements summary.

* * * * *

(b) In order to include funds from an environmental program grant listed in § 35.501(a) of this subpart in a Performance Partnership Grant, applicants must:

(1) Meet the requirements for award of each environmental program from which funds are included in the Performance Partnership Grant, except the requirements at §§ 35.548(c), 35.638(b) and (c), 35.691, and 35.708 (c), (d), (e), and (g). These requirements can be found in this regulation beginning at § 35.540. If the applicant is an Intertribal Consortium, each Tribe that is a member of the Consortium must meet the requirements.

(2) Apply for the environmental program grant.

(3) Obtain the Regional Administrator's approval of the application for that grant.

* * * * *

21. Revise §35.533(a) to read as follows:

§35.533 Programs eligible for inclusion.

(a) *Eligible programs.* Except as provided in paragraph (b) of this section, the environmental programs eligible for inclusion in a Performance Partnership Grant are listed in § 35.501(a)(2) through (10) of this subpart. Funds awarded to tribes under Tribal Response

Program Grants (§ 35.501(a)(10)) to capitalize a revolving loan fund for Brownfield remediation or purchase insurance or develop a risk sharing pool, an indemnity pool, or insurance mechanism to provide financing for response actions may not be included in Performance Partnership Grants. A current list of environmental programs eligible for inclusion in Performance Partnership Grants is available at www.epa.gov/nepps.

* * * * *

22. Revise §35.588(a)(1) to read as follows:

§35.588 Award limitations.

(a) ***

(1) All monitoring and analysis activities performed by the Tribe or Intertribal Consortium meets the applicable quality assurance and quality control requirements in 2 CFR 1500.12.

* * * * *

SUBPART I---GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

23. Amend §35.2036 by revising paragraphs (a)(4), (b), and (d)(2) to read as follows:

§35.2036 Design/build project grants.

(a) ***

* * * * *

(4) The grantee obtains bonds from the contractor in an amount the Regional Administrator determines adequate to protect the Federal interest in the treatment works (see 2 CFR 200.326);

* * * * *

(b) *Procurement.* (1) Grantee procurement for developing or supplementing the facilities plan to prepare the pre-bid package, as well as for designing and building the project and performing construction management and contract administration, will be in accordance with the procurement standards at 2 CFR 200.317 through 200.327 and 2 CFR 1500.10 through 1500.11.

(2) The grantee will use the sealed bid (formal advertising) method of procurement to select the design/build contractor.

(3) The grantee may use the same architect or engineer that prepared the facilities plan to provide any or all of the pre-bid, construction management, and contract and/or project administration services provided the initial procurement met EPA requirements (see 2 CFR 1500.11).

* * * * *

(d) ***

(2) An estimated cost of supplementing the facilities plan and other costs necessary to prepare the pre-bid package (see appendix A.I.1(a) of this subpart); and

* * * * *

24. Revise § 35.2105 to read as follows:

§35.2105 Debarment and suspension.

The applicant shall indicate whether it used the services of any individual, organization, or unit of government for facilities planning or design work whose name appears on the master list of debarments, suspensions, and voluntary exclusions. See 2 CFR 200.214 and 2 CFR part 1532. If the applicant indicates it has used the services of a debarred individual or firm, EPA will closely examine the facilities plan, design drawings and specifications to determine whether to award a grant. EPA will also determine whether the applicant should be found non-responsible under 2 CFR parts 200 and 1500 or be the subject of possible debarment or suspension under 2 CFR part 1532.

25. Revise §35.2300(e)(1) to read as follows:

§35.2300 Grant payments.

* * * * *

(e) *Payment under grants to States for advances of allowance—(1) Advance payment to State.* Notwithstanding the provisions of the introductory paragraph of this section, the Regional

Administrator, under a State grant for advances of allowance (see §35.2025), may make payments on an advance or letter-of-credit payment method in accordance with the requirements under 2 CFR 200.305. The State and the Regional Administrator shall agree to the payment terms.

* * * * *

26. Amend Appendix A to subpart I of part 35 by:

- a. Under the heading “A. Costs Related to Subagreements” revising paragraph 1. b.; and
- b. Under the heading “E. Equipment, Materials and Supplies” revising paragraph 2. a.

The revisions read as follows:

Appendix A to Subpart I of Part 35—Determination of Allowable Costs

* * * * *

A. Costs Related to Subagreements

1. ***

b. The costs of complying with the procurement standards in 2 CFR 200.317 through 200.327 and 2 CFR 1500.10 and 1500.11.

* * * * *

E. Equipment, Materials and Supplies

* * * * *

2. ***

a. The costs of equipment or material procured in violation of the procurement standards in 2 CFR 200.317 through 2 CFR 200.327 and 2 CFR 1500.10 and 1500.11.

* * * * *

SUBPART J—CONSTRUCTION GRANTS PROGRAM DELEGATION TO STATES

27. Revise §35.3025(c) to read as follows:

§35.3025 Overview of State performance under delegation.

* * * * *

(c) *Monitoring and evaluating program performance.* Monitoring and evaluation of program performance (including State reporting) is based on the plan for overview agreed to in advance and should be appropriate to the delegation situation existing between the Region and State. It should take into account past performance of the State and the extent of State experience in administering the delegated functions. An on-site evaluation will occur at least annually and will cover, at a minimum, negotiated annual outputs, performance expected in the delegation agreement and, where applicable, evaluation of performance under the assistance agreement as provided in 40 CFR 35.150. The evaluation will cover performance of both the Region and the State. Upon completion of the evaluation, the delegation agreement may be revised, if necessary, to reflect changes resulting from the evaluation. The Regional Administrator may terminate or annul any section 205(g) financial assistance for cause in accordance with 2 CFR 200.339 through 2 CFR 200.343, *Remedies for Noncompliance*.

SUBPART L--- DRINKING WATER STATE REVOLVING FUNDS

28. Revise §35.3585(a) to read as follows:

§35.3585 Compliance assurance procedures.

(a) *Causes.* The RA may take action under this section and the remedies of noncompliance of 2 CFR 200.339 through 200.343, if a determination is made that a State has not complied with its capitalization grant agreement, other requirements under section 1452 of the Act, this subpart, 2 CFR parts 200 and 1500, or has not managed the DWSRF program in a financially sound manner (*e.g.*, allows consistent and substantial failures of loan repayments).

* * * * *

SUBPART M—GRANTS FOR TECHNICAL ASSISTANCE

29. Amend §35.4012 by revising paragraphs (b) and (c) and adding paragraphs (d) and (e) to read as follows:

§35.4012 If there appears to be a difference between the requirements of 2 CFR Parts 200 and 1500 and this subpart, which regulations should my group follow?

* * * * *

(b) 2 CFR 200.320, Methods of procurement to be followed.

(c) 2 CFR 200.325(b)(2), Federal awarding agency or pass-through entity review.

(d) 2 CFR 200.324, Cost or price analysis.

(e) 2 CFR part 1500 Subpart E—Disputes.

30. Revise §35.4120 to read as follows:

§35.4120 What does my group do next?

(a) After you submit an LOI, you must determine whether your application is subject to Federal intergovernmental review requirements under 40 CFR part 29 or intergovernmental review procedures established in state or local law.

(b) To determine whether your TAG application is subject to Federal intergovernmental review, you must consult EPA's list of financial assistance programs subject to intergovernmental review under 40 CFR part 29 posted at <https://www.epa.gov/grants/epa-financial-assistance-programs-subject-executive-order-12372-and-section-204-demonstration> (EPA IR List). The EPA IR List identifies the Assistance Listing Numbers for EPA financial assistance programs that have Federal intergovernmental review requirements. The Assistance Listing Number for the TAG program is 66.806.

31. Revise §35.4125 to read as follows:

§35.4125 What else does my group need to do?

Once you've determined whether Federal intergovernmental review requirements apply, you must prepare a TAG application on EPA SF-424, Application for Federal Assistance, or those forms and instructions provided by EPA that include:

(a) A "budget";

(b) A scope of work;

(c) Assurances, certifications and other pre-award paperwork as 2 CFR part 200 requires.

Your EPA regional office will provide you with the required forms.

32. Revise §35.4235(g)(3) to read as follows:

§35.4235 Are there specific provisions my group's contract(s) must contain?

* * * * *

(g) ***

(3) Access to records (2 CFR 200.337); and

* * * * *

33. Revise §35.4245 to read as follows:

§35.4245 How does my group resolve a disagreement with EPA regarding our TAG?

The regulations at 2 CFR part 1500 Subpart E will govern disputes except that, before you may obtain judicial review of the dispute, you must have sought reconsideration of the Dispute Decision Official's Appeal decision under 2 CFR 1500.17.

34. Revise §35.4250(b) to read as follows:

§35.4250 Under what circumstances would EPA terminate my group's TAG?

* * * * *

(b) EPA may also terminate your grant with your group's consent in which case you and EPA must agree upon the termination conditions, including the effective date as 2 CFR 200.340 describes.

35. Revise §35.4260 introductory text to read as follows:

§35.4260 What other steps might EPA take if my group fails to comply with the terms and conditions of our award?

EPA may take one or more of the following actions, under 2 CFR 200.339, depending on the circumstances:

* * * * *

**SUBPART O—COOPERATIVE AGREEMENTS AND SUPERFUND STATE
CONTRACTS FOR SUPERFUND RESPONSE ACTIONS**

36. Revise §35.6025 to read as follows:

§35.6025 Exceptions from this subpart.

On a case-by-case basis, EPA will consider requests for official exceptions from the non-statutory provisions of this subpart. Refer to the requirements regarding exceptions described in 2 CFR 1500.4.

37. Revise §35.6055(b)(2)(i) to read as follows:

§35.6055 State-lead pre-remedial Cooperative Agreements.

* * * * *

(b) ***

(2) *Quality assurance.* (i) The recipient must comply with the quality assurance requirements described in 2 CFR 1500.12.

* * * * *

38. Revise §35.6105(a)(2)(vi)(A) to read as follows:

§35.6105 State-lead remedial Cooperative Agreements.

* * * * *

(a) * * *

(2) ***

(vi) *Quality assurance—(A) General.* If the project involves environmentally related measurements or data generation, the recipient must comply with the requirements regarding quality assurance described in 2 CFR 1500.12.

* * * * *

39. Revise §35.6550(a)(1) to read as follows:

§35.6550 Procurement system standards.

(a) *** (1) In addition to the procurement standards described in 2 CFR 200.317 through 200.327 and 2 CFR part 1500, the State shall comply with the requirements in the following: Paragraphs (a)(5), (a)(9), and (b) of this section, § 35.6555(c), in § 35.6565 the first sentence of the introductory text, the first sentence of paragraph (b), paragraph (d), and §§ 35.6570, 35.6575, and 35.6600. Political subdivisions and Tribes must follow all of the requirements included or referenced in this section through §35.6610.

* * * * *

40. Revise §35.6565 introductory text to read as follows:

§35.6565 Procurement methods.

The recipient must comply with the requirements for payment to consultants described in 2 CFR 1500.10. In addition, the recipient must comply with the following requirements:

* * * * *

41. Revise §35.6590(a) to read as follows:

§35.6590 Bonding and insurance.

(a) *General.* The recipient must meet the requirements regarding bonding described in 2 CFR 200.326. The recipient must clearly and accurately state in the contract documents the bonds and insurance requirements, including the amounts of security coverage that a bidder or offeror must provide.

* * * * *

42. Revise §35.6650(a) to read as follows:

§35.6650 Progress reports.

(a) *Reporting frequency.* The recipient must submit progress reports as specified in the Cooperative Agreement. Progress reports will be required no more frequently than quarterly, and will be required at least annually. Notwithstanding the requirements of 2 CFR 200.328 and 200.329, the reports shall be due within 60 days after the reporting period.

* * * * *

43. Amend §35.6670 by revising paragraphs (a) and (b)(2)(i) to read as follows:

§35.6670 Financial reports.

(a) *General.* The recipient must comply with the requirements regarding financial reporting described in 2 CFR 200.328.

(b) ***

(2) ***

(i) If a Financial Status Report is required annually, the report is due 90 days after the end of the Federal fiscal year or as specified in the Cooperative Agreement. If quarterly or semiannual Financial Status Reports are required, reports are due in accordance with 2 CFR 200.328;

* * * * *

44. Revise §35.6705(d) to read as follows:

§35.6705 Records retention.

* * * * *

(d) *Starting date of retention period.* The recipient must comply with the requirements regarding the starting dates for records retention described in 2 CFR 1500.7.

* * * * *

45. Amend §35.6710 by revising paragraphs (a) and (c) to read as follows:

§35.6710 Records access.

(a) *Recipient requirements.* The recipient must comply with the requirements regarding records access described in 2 CFR 200.337.

* * * * *

(c) *Contractor requirements.* The recipient must require its contractor to comply with the requirements regarding records access described in 2 CFR 200.337.

46. Revise §35.6755 to read as follows:

§35.6755 Monitoring program performance.

The recipient must comply with the requirements regarding program performance monitoring described in 2 CFR 200.329.

47. Revise §35.6760 to read as follows:

§35.6760 Remedies for noncompliance and termination.

The recipient must comply with all terms and conditions in the Cooperative Agreement and is subject to the remedies for noncompliance with the terms of an award and termination described in 2 CFR 200.339 and 200.340.

48. Revise §35.6780(b) to read as follows:

§35.6780 Closeout.

* * * * *

(b) The recipient must comply with the closeout requirements described in 2 CFR 200.344 and 200.345.

* * * * *

49. Revise §35.6785 to read as follows:

§35.6785 Collection of amounts due.

The recipient must comply with the requirements described in 2 CFR 200.346 regarding collection of amounts due.

50. Revise §35.6790 to read as follows:

§35.6790 Specific conditions .

If EPA determines that a recipient is not responsible, EPA may impose specific conditions on the award as described in 2 CFR 200.208 or restrictions on the award as described in 2 CFR 200.339.

51. Revise §35.6815(a)(2) to read as follows:

§35.6815 Administrative requirements.

(a) ***

(2) *Collection of amounts due.* The State and/or political subdivision must comply with the requirements described in 2 CFR 200.346 regarding collection of amounts due.

* * * * *

SUBPART P - FINANCIAL ASSISTANCE FOR THE NATIONAL ESTUARY PROGRAM

52. Revise § 35.9015(d) to read as follows:

§35.9015 Summary of annual process.

* * * * *

(d) The Regional Administrator may use funds not awarded to an applicant to supplement awards to other recipients who submit a scope of work approved by the management conference for NEP funds.

* * * * *

PART 40—RESEARCH AND DEMONSTRATION GRANTS

53. The authority citation for part 40 continues to read as follows:

Authority: [7 U.S.C. 136](#) *et seq.*; [15 U.S.C. 2609](#) *et seq.*; [33 U.S.C. 1254](#) *et seq.* and 1443; [42 U.S.C. 241](#) *et seq.*, 300f *et seq.*, 1857 *et seq.*, 1891 *et seq.*, and 6901 *et seq.*, [2 CFR part 200](#).

54. Revise § 40.135-1(b) to read as follows:

§40.135-1 Preapplication coordination.

* * * * *

(b) Applications for grants for demonstration projects funded by the Office of Resource Conservation and Recovery will be solicited in accordance with 2 CFR 200.204 and selections will be made on a competitive basis to the extent required by EPA policy.

55. Revise § 40.135-2 introductory text to read as follows:

§40.135-2 Application requirements.

All applications for research and demonstration grants shall be submitted to the Environmental Protection Agency, in accordance with 2 CFR 200.207.

* * * * *

56.. Amend §40.155 by revising paragraphs (b) and (c) to read as follows:

§40.155 Availability of information.

* * * * *

(b) An assertion of entitlement to confidential treatment of part or all of the information in an application may be made using the procedure described in 2 CFR 200.212. See also §§2.203 and 2.204 of this chapter.

(c) All information and data contained in the grant application will be subject to external review unless deviation is approved for good cause pursuant to 2 CFR 1500.4.

57. Revise §40.160-2 to read as follows:

§40.160-2 Financial status report.

A financial status report must be prepared and submitted within 120 days after completion of the budget and project periods in accordance with 2 CFR 200.328 and 2 CFR 200.344.

58. Revise §40.160-3(b) to read as follows:

§40.160-3 Reporting of inventions.

* * * * *

(b) A final invention report is required within 120 days after completion of the project period as provided in 2 CFR 200.344.

* * * * *

59. Revise §40.160-4 to read as follows:

§40.160-4 Equipment report.

As provided in 2 CFR 200.344 within 120 days of the completion or termination of a project, the grantee will submit a listing of all items of *Equipment* as defined at 2 CFR 200.1.

60. Revise §40.160-5 to read as follows:

§40.160-5 Final report.

The grantee shall submit a draft of the final report for review no later than 90 days prior to the end of the approved project period. The report shall document project activities over the entire period of grant support and shall describe the grantee's achievements with respect to stated project purposes and objectives. The report shall set forth in complete detail all technical aspects of the projects, both negative and positive, grantee's findings, conclusions, and results, including, as applicable, an evaluation of the technical effectiveness and economic feasibility of the methods or techniques investigated or demonstrated. The final report shall include EPA comment when required by the grants officer. Within 120 days of the end of the project period, one reproducible copy suitable for printing and such other copies as may be stipulated in the grant agreement shall be transmitted to the grants officer as required by 2 CFR 200.344.

PART 45—TRAINING ASSISTANCE

61. The authority citation for part 45 continues to read as follows:

Authority: Sec. 103 of the Clean Air Act, as amended ([42 U.S.C. 7403](#)), secs. 104(g), 109, and 111 of the Clean Water Act, as amended ([33 U.S.C. 1254\(g\)](#), [1259](#), and [1261](#)), secs. 7007 and 8001 of the Solid Waste Disposal Act, as amended ([42 U.S.C. 6977](#) and [6981](#)); sec. 1442 of the Safe Drinking Water Act, as amended ([42 U.S.C. 300j-1](#)). [2 CFR part 200](#).

62. Amend §45.130 by revising paragraph (a) introductory text, to read as follows:

§45.130 Evaluation of applications.

(a) Consistent with 2 CFR 200.205, the appropriate EPA program office staff will review training applications in accordance with the following criteria:

* * * *

63. Revise §45.140 to read as follows:

§45.140 Budget and project period.

The budget and project periods for training awards will be specified in the terms of the awards as provided by 2 CFR 200.211.

64. Revise §45.150 to read as follows:

§45.150 Reports.

(a) Recipients must submit the reports required in 2 CFR 200.328 and 200.329.

(b) A draft of the final project report is required 90 days before the end of the project period. The recipient shall prepare the final projects report in accordance with the project officer's instructions and submit the final project report within 120 days after the end of the project period as provided in 2 CFR 200.344.

PART 46—FELLOWSHIPS

65. The authority citation for part 46 is revised to read as follows:

Authority: Section 103(b)(5) of the Clean Air Act, as amended (42 U.S.C. 7403(b)(5)); sections 104(b)(5) and (g)(3)(B) of the Clean Water Act, as amended (33 U.S.C. 1254(b)(5) and (g)(3)(B)); section 1442 of the Safe Drinking Water Act, as amended (42 U.S.C. 300j-1); section 8001 of the Solid Waste Disposal Act, as amended (42 U.S.C. 6981); section 10 of the Toxic Substances Control Act, as amended (15 U.S.C. 2609); section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136r); sections 104(k)(7) and 311 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(k)(7) and 42 U.S.C. 9660). 2 CFR part 200 and 2 CFR part 1500.

66. Revise §46.105(g) to read as follows:

§46.105 Authority.

* * * * *

(g) Sections 104(k)(7) and 311 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604(k)(7) and 42 U.S.C. 9660).

PART 47—NATIONAL ENVIRONMENTAL EDUCATION ACT GRANTS

67. The authority citation for part 47 continues to read as follows:

Authority: 20 U.S.C. 5505. 2 CFR part 200.

68. Revise §47.130(c) to read as follows:

§47.130 Performance of grant.

* * * * *

(c) Procurement procedures for all recipients are described in 2 CFR part 200 subpart D—Post Federal Award Requirements (2 CFR 200.317 through 200.327). These procedures include provisions for small purchase procedures.

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